



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 230316-0077]

RIN 0648-BL90

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; 2023-2025 Atlantic Herring Fishery Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Interim final rule.

SUMMARY: This interim rule implements 2023-2025 Atlantic herring fishery specifications, subject to public comment. This action also removes possession limits in Herring Management Area 1B and Area 3, adjusts 2023 fishery specifications to account either for Management Area catch limit overages or carryover of unharvested catch from 2021, updates the target rebuilding date for herring, removes the inshore midwater trawl restricted area regulations, corrects typographical errors in several existing regulations, and restores regulatory requirements that were unintentionally removed from the Code of Federal Regulations. This action is necessary to respond to updated scientific information from a 2022 management track assessment and to achieve the goals and objectives of the Atlantic Herring Fishery Management Plan. The approved measures are intended to help prevent overfishing, rebuild the overfished herring stock, achieve optimum yield on a continuing basis, and ensure that management measures are based on the best scientific information available.

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. Public comments must be received by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2023-0015, by the following method:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2023-0015 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

Instructions: Comments sent by any other method or received after the end of the comment period may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (*e.g.*, name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. We will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

Copies of the 2023-2025 herring specifications action, including the Supplemental Information Report (SIR) and the Regulatory Impact Review (RIR) prepared by the New England Fishery Management Council in support of this action, are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. These documents are also accessible via the Internet at <https://www.nefmc.org/management-plans/herring> or <http://www.regulations.gov>. Copies of the small entity compliance guide are available from on the internet at: <http://www.greateratlantic.fisheries.noaa.gov>.

FOR FURTHER INFORMATION CONTACT: Maria Fenton, Fishery Management Specialist, (978) 281-9196, Maria.Fenton@noaa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

1. Background
2. Summary of Approved Measures
3. 2023-2025 Herring Fishery Specifications
4. Removal of 2,000-lb (907.2-kg) Possession Limits from Area 1B and Area 3
5. Adjustments to 2023 Herring Fishery Specifications
6. Revision to the Herring Rebuilding Plan
7. Removal of Inshore Midwater Trawl Restricted Area Regulations
8. Other Administrative Revisions and Corrections

1. Background

Regulations implementing the Atlantic Herring Fishery Management Plan (FMP) appear at 50 CFR part 648, subpart K. The regulations at § 648.200 require the New England Fishery Management Council to recommend herring specifications for NMFS' review and publication in the **Federal Register**, including: The overfishing limit (OFL); acceptable biological catch (ABC); annual catch limit (ACL); optimum yield (OY); management uncertainty; domestic annual harvest (DAH); domestic annual processing (DAP); U.S. at-sea processing (USAP); border transfer; the sub-ACL for each management area, including seasonal periods as specified by § 648.201(d) and modifications to sub-ACLs as specified by § 648.201(f); and the amount to be set aside for the research set-aside (RSA) (0-3 percent of the sub-ACL from any management area) for a period of 3 years. These regulations also provide the Council with the discretion to modify accountability measures, possession limits, river herring monitoring/avoidance areas, and river herring and shad catch caps through the specifications process.

Consistent with the opportunity for public comment provided by the regulations, NMFS is implementing these specifications as recommended by the Council, subject to

further consideration of additional public comments in response to this rule. Immediate implementation pending consideration of public comment allows herring fishery participants increased fishing opportunities consistent with the higher catch limits in this action. The specifications implemented in this action are consistent with the ABC control rule put in place by Amendment 8 to the Atlantic Herring FMP and are responsive to updated assessment data, both of which have been subject to robust public comment during the development of Amendment 8 and these specifications. The specifications are formulaic and dependent on applying updated data to the ABC control rule, a rule that was developed using a comprehensive management strategy evaluation process. The resulting recommendations were closely analyzed and commented on during their development. Further opportunity for public comment after implementing these measures will help ensure there have been no significant omissions or errors, or other information that might warrant changes. NMFS will publish a subsequent final rule if NMFS receives any significant comments.

The Northeast Fisheries Science Center completed the most recent herring management track assessment in June 2022. The results of the 2022 assessment indicated that the stock is overfished but overfishing is not occurring, which is unchanged from the 2020 assessment. The 2022 assessment updated fishery catch data, survey indices, life history parameters, biological reference points, and several assumptions in the model used to generate short-term biomass projections. The Council's Scientific and Statistical Committee (SSC) met on August 4, 2022, to review the results of the 2022 assessment and make OFL and ABC recommendations for 2023-2025. The Herring Plan Development Team (PDT) recommended that the SSC base its OFL and ABC recommendations on the ABC control rule, which is consistent with the herring rebuilding plan that was implemented in August 2022. The SSC considered the PDT's recommendation; however, due to the amount of scientific uncertainty in the stock

assessment and concerns over the magnitude of the increase in projected 2024-2025 OFLs and ABCs, the SSC also considered holding the 2023 OFL and ABC values constant during 2023-2025. Because the ABC control rule was developed using a rigorous management strategy evaluation, use of the ABC control rule is consistent with the herring rebuilding plan, and the PDT's recommended specifications incorporate updated assessment information, the SSC ultimately decided to recommend the PDT's recommended OFLs and ABCs. The Council finalized its 2023-2025 herring fishery specification recommendations during its September 2022 meeting. The Council's recommendations are consistent with the advice of the SSC and the PDT.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) permits NMFS to approve, partially approve, or disapprove measures proposed by the Council based only on whether the measures are consistent with the fishery management plan, plan amendment, the Magnuson-Stevens Act and its National Standards, and other applicable law. NMFS intended to propose the Council's recommended specifications prior to implementing them. However, in order to ensure that revised 2023 herring fishery specifications are implemented as soon after the start of the fishing year (January 1, 2023) as possible, NMFS is implementing 2023-2025 herring fishery specifications and other management measures through this interim final rule, subject to further consideration of public comments. If implementation of revised 2023 specifications is delayed, the herring fleet may miss out on the economic opportunities associated with these specifications.

2. Summary of Approved Measures

This action implements the Council's recommended 2023-2025 herring fishery specifications pursuant to the administrative authority granted to NMFS under the Magnuson-Stevens Conservation and Management Act at section 305(d). The specifications include OFL, ABC, ACL, OY, management uncertainty, DAH, DAP,

USAP, border transfer, management area sub-ACLs, RSA, and river herring/shad catch caps for each year during 2023-2025.

This action also implements a number of other measures that are not part of the 2023-2025 herring fishery specifications action, pursuant to the administrative authority granted to NMFS under the Magnuson-Stevens Act at section 305(d). NMFS is implementing these measures in conjunction with the 2023-2025 herring fishery specifications action for expediency purposes, and because some of these measures are related to the specifications being implemented through this action. The additional measures being implemented through this action are listed below:

- *Removal of 2,000-lb (907.2-kg) Possession Limits from Area 1B and Area 3*—this action removes 2,000-lb (907.2-kg) possession limits for herring in Area 1B and Area 3 that were implemented in January 2023;
- *Adjustments to 2023 herring fishery specifications*—this action announces adjustments to the 2023 herring fishery specifications in order to account for catch overages and carryover of unharvested catch from 2021;
- *Revision to the herring rebuilding plan*—this action revises the target rebuilding date for herring;
- *Removal of inshore midwater trawl restricted area regulations*—this action removes the inshore midwater trawl restricted area; and
- *Other administrative revisions and corrections*—this action corrects a typographical error in the coordinates for the Western Gulf of Maine Habitat Management Area, revises an incorrect regulatory citation in the herring regulations pertaining to measures to address slippage on vessels issued a Category A or B herring permit, and restores general recordkeeping and reporting requirements that were unintentionally removed from the Code of Federal Regulations.

3. 2023-2025 Herring Fishery Specifications

This action implements the Council's recommended 2023-2025 herring fishery specifications. In 2021, the interim final rule implementing Framework Adjustment 8 to the Atlantic Herring FMP set herring fishery specifications for 2021-2023 based on the results of a 2020 management track assessment (86 FR 17081, April 1, 2021). This action replaces the default 2023 specifications that were implemented through Framework 8 (Table 1).

Table 1 -- Summary of Default and Revised 2023-2025 Herring Fishery Specifications (mt).

Specification	Default Values (Framework 8)	Revised Values		
	2023	2023	2024	2025
OFL	44,600	29,138	32,233	40,727
ABC	8,767	16,649	23,409	28,181
Management Uncertainty*	4,669	4,220	4,220	4,220
OY/ACL	4,098	12,429*	19,189*	23,961*
DAH	4,098	12,429	19,189	23,961
Border Transfer	0	0	0	0
DAP	4,098	12,429	19,189	23,961
USAP	0	0	0	0
Area 1A sub-ACL (28.9%)	1,184	3,592*	5,546*	6,925*
Area 1B sub-ACL (4.3%)	176	534	825	1,030
Area 2 sub-ACL (27.8%)	1,139	3,455	5,335	6,661
Area 3 sub-ACL (39%)	1,598	4,847	7,484	9,345
Fixed Gear Set-Aside	30	30	30	30
RSA as % of sub-ACL	0%	0%	0%	0%

*If New Brunswick weir landings are less than 2,722 mt through October 1, then 1,000 mt will be subtracted from the management uncertainty buffer and reallocated to the Area 1A sub-ACL and the ACL.

OFL

This action decreases the 2023 OFL by 35 percent relative to the default 2023 OFL that was implemented through Framework 8. The difference between the default and revised 2023 OFLs is due to the data updates and changes that were made in the model assumptions during the 2022 assessment. The 2023 OFL decreased for two reasons: Fishing mortality at maximum sustainable yield (F_{MSY}) was lower in the 2022

assessment than it was in the 2020 assessment (0.50 and 0.54, respectively); and projected 2023 biomass was much lower in the 2022 assessment than it was in the 2020 assessment (79,231 mt and 130,616 mt, respectively).

ABC

This action increases the 2023 ABC by 90 percent relative to the default 2023 ABC that was implemented through Framework 8. The difference between the default and revised 2023 ABCs are due to the data updates and changes that were made in the model assumptions during the 2022 assessment. Under the ABC control rule, the target F that defines the ABC depends on the ratio of spawning stock biomass (SSB) to SSB_{MSY} . The larger the ratio, the bigger the target F and ABC, and vice-versa. MSY reference points were revised during the 2022 management track assessment and, as a result, SSB_{MSY} decreased relative to the 2020 assessment. This caused the ratio of SSB to SSB_{MSY} to increase relative to the 2020 assessment, resulting in a higher 2023 ABC.

Management Uncertainty

The herring ACL is reduced from the ABC in order to account for management uncertainty. The Atlantic Herring FMP states that sources of management uncertainty can include, but are not limited to, uncertainty surrounding catch in the New Brunswick weir fishery and herring discard estimates in Federal and state waters. Currently, the only source of management uncertainty that is applied to the 2023-2025 ABCs is catch in the New Brunswick weir fishery. Since Framework Adjustment 6 to the Atlantic Herring FMP was implemented in 2020 (85 FR 26874, May 6, 2020), management uncertainty has been calculated as the average annual landings in the New Brunswick weir fishery over the most recent 10-year period. Landings in the weir fishery are highly variable, fluctuating with herring availability and fishing effort. Using landings data from a 10-year period captures this variability. This action maintains the same approach for

calculating management uncertainty. The resulting management uncertainty buffer (4,220 mt) is based on New Brunswick weir fishery landings during 2012-2021.

New Brunswick Weir Adjustment

This rule modifies the New Brunswick weir adjustment regulations at § 648.201(h) to state that if NMFS determines that the weir fishery landed less than 2,722 mt of herring through October 1, NMFS will subtract 1,000 mt from the management uncertainty buffer and reallocate that 1,000 mt to the Area 1A sub-ACL and the ACL. Currently, § 648.201(h) states that this transfer will be completed if NMFS determines that the New Brunswick weir fishery landed less than 3,012 mt of herring through October 1. Since 2016, the transfer trigger has been calculated based on a proportion (64.5 percent) of the management uncertainty buffer. This action maintains the same approach for calculating the transfer trigger, which in this instance results in 2,722 mt.

Other Specifications Components

The Council recommended keeping the remainder of the 2023-2025 herring specifications status quo and/or using status quo methodology to calculate them. This action also maintains status quo river herring and shad catch caps for 2023-2025 (Table 2).

Table 2 -- 2023-2025 River Herring and Shad Catch Caps (mt).

Catch Cap	Default Values	Revised Values
	2023	2023-2025
Midwater Trawl Gulf of Maine	76.7	76.7
Midwater Trawl Cape Cod	32.4	32.4
Midwater Trawl Southern New England and Mid-Atlantic	129.6	129.6
Bottom Trawl Southern New England and Mid-Atlantic	122.3	122.3

4. Removal of 2,000-lb (907.2-kg) Possession Limits from Area 1B and Area 3

Herring regulations at § 648.201(a)(1)(i)(A) require NMFS to implement a 2,000-

lb (907.2-kg) herring possession limit for Area 1B beginning on the date that catch is projected to reach 92 percent of the sub-ACL for that area. Herring regulations at § 648.201(a)(1)(i)(B)(2) require NMFS to implement a 2,000-lb (907.2-kg) herring possession limit for Area 3 beginning on the date that catch is projected to reach 98 percent of the sub-ACL for that area. In 2021, the interim final rule implementing Framework 8 set herring fishery specifications for 2021-2023. By regulation, these specifications remain in place until they are replaced by new specifications. The updated 2023 herring fishery specifications being implemented through this action replace the default 2023 specifications that were previously implemented through Framework 8. However, until this action becomes effective, the herring fishery will continue to operate under the default 2023 specifications. The fishery has been operating under the default 2023 specifications since January 1, 2023.

Based on dealer reports, state data, and other available information, NMFS estimated that the herring fleet had harvested 92 percent of the default 2023 Area 1B sub-ACL by January 6, 2023, and 98 percent of the default 2023 Area 3 sub-ACL by January 10, 2023. Therefore, in January 2023, NMFS implemented 2,000-lb (907.2-kg) possession limits in Area 1B and Area 3 (88 FR 2271, January 13, 2023; and 88 FR 2859, January 18, 2023, respectively). The updated 2023 Area 1B and Area 3 sub-ACLs implemented through this action are higher than the default 2023 Area 1B and Area 3 sub-ACLs that were implemented through Framework 8. Because these sub-ACLs are increased through this action, the amount of herring that has been caught in Area 1B in 2023 does not exceed 92 percent of the updated 2023 Area 1B sub-ACL, and the amount of herring that has been caught in Area 3 in 2023 does not exceed 98 percent of the updated 2023 Area 3 sub-ACL. Therefore, this action removes the 2,000-lb (907.2-kg) possession limits that were previously implemented in Area 1B and Area 3.

If/when NMFS projects that herring catch will exceed 92 percent of the updated

Area 1B sub-ACL, NMFS will implement a 2,000-lb (907.2-kg) possession limit in Area 1B in accordance with the regulations at § 648.201(a)(1)(i)(A). If/when NMFS projects that herring catch will exceed 90 percent of the updated Area 3 sub-ACL, NMFS will implement a 40,000-lb (18,143.7-kg) possession limit in Area 3 in accordance with the regulations at § 648.201(a)(1)(i)(B)(1). If/when NMFS projects that herring catch will exceed 98 percent of the updated Area 3 sub-ACL, NMFS will implement a 2,000-lb (907.2-kg) possession limit in Area 3 in accordance with the regulations at § 648.201(a)(1)(i)(B)(2).

5. Adjustments to 2023 Herring Fishery Specifications

Herring regulations require that unharvested catch (equaling up to 10 percent of the initial sub-ACL) from a herring management area in a given fishing year shall be carried over and added to the sub-ACL for that management area in the fishing year following total catch determination. Carryover gets added to the applicable management area sub-ACL, but it does not get added to the ACL. Herring regulations also require that if NMFS determines that total catch exceeded a management area sub-ACL by any amount and the ACL was also exceeded in a given fishing year, then NMFS shall subtract the full amount of the sub-ACL overage from the applicable sub-ACL and the full amount of the ACL overage from the ACL in the fishing year following total catch determination. This action announces adjustments to the 2023 herring specifications to account for carryover of unharvested catch and catch overages from 2021 (Table 3).

Table 3 -- Summary of 2021 Catch and Adjusted 2023 Herring Fishery Specifications (mt).

Specification	2021 Limits (Adjusted)	2021 Final Catch	2021 Catch (Percent of Limits)	2021 Underages (+) and Overages (-)	Carryover for 2023*	Overage Deductions for 2023	2023 Initial Values	2023 Adjusted Values
Area 1A Sub-ACL	2,609	2,856	109%	-247	0	247	3,592	3,345

Area 1B Sub-ACL	239	0	0%	239	21	0	534	555
Area 2 Sub-ACL	652	191	29%	461	134	0	3,455	3,589
Area 3 Sub-ACL	2,181	2,222	102%	-41	0	41	4,847	4,806
ACL	5,128	5,268	103%	-140	0	140	12,429	12,287

*Up to 10 percent of the initial 2021 sub-ACL can be carried over to 2023.

6. Revision to the Herring Rebuilding Plan

The final rule implementing Framework Adjustment 9 to the Atlantic Herring FMP established a rebuilding plan for herring that became effective in August 2022 (87 FR 42962; July 19, 2022). Analyses conducted during the development of Framework 9 indicated that under this rebuilding plan, the herring stock could rebuild in 5 years (by 2026) assuming long-term average recruitment. New projections that were generated for this action using updated data indicate that the herring stock is no longer likely to rebuild by 2026, but it could rebuild by 2028. This action revises the target rebuilding date for herring to 2028 in order to reflect the results of these updated analyses. This still falls within the 10-year rebuilding period required under the Magnuson-Stevens Act.

7. Removal of Inshore Midwater Trawl Restricted Area Regulations

In 2021, Amendment 8 to the Atlantic Herring FMP prohibited the use of midwater trawl gear inshore of 12 nautical miles (22 km) from the U.S./Canada border to the Rhode Island/Connecticut border and inshore of 20 nautical miles (37 km) off the east coast of Cape Cod with the intent of addressing issues of localized depletion and user group conflict (86 FR 1810, January 11, 2021). However, as a result of litigation by midwater trawl industry members, a Court ruled that this measure was arbitrary and capricious and violated the Administrative Procedure Act based on a conclusion that the available scientific information did not sufficiently support that localized depletion was occurring. The Court further ruled that implementation of the inshore midwater trawl restricted area failed to comply with National Standard 4 to the Magnuson-Stevens Act

because the rule did not sufficiently demonstrate that the measure was reasonably calculated to promote conservation. As a result, the inshore midwater trawl restricted area measures were vacated. Accordingly, this action removes the regulatory text that implemented the inshore midwater trawl restricted area from the prohibitions at § 648.14, and the herring regulations at § 648.202.

8. Other Administrative Revisions and Corrections

In 2016, Volume 3 of the Final Environmental Impact Statement (FEIS) prepared for the Omnibus Essential Fish Habitat Amendment 2 contained coordinates for the Western Gulf of Maine Habitat Management Area (HMA). In the FEIS, the longitude for one of the points defining the Western Gulf of Maine HMA (WGMH4) was erroneously listed as 70°15' W. The correct longitude for this point is 70°00' W. This typographical error was repeated in the final rule (83 FR 15240) implementing the Omnibus Essential Fish Habitat Amendment 2. This action corrects the coordinates for the Western Gulf of Maine HMA (Table 4) at § 648.370(f)(1).

Table 4 -- Corrected Coordinates for the Western Gulf of Maine HMA.

Point	N Latitude	W Longitude
WGMH1	43°15' N	70°15' W
WGMH2	42°15' N	70°15' W
WGMH3	42°15' N	70°00' W
WGMH4	43°15' N	70°00' W
WGMH1	43°15' N	70°15' W

Herring regulations at § 648.202(b)(4)(iv) reference regulations containing measures to address slippage on vessels issued a Category A or B herring permit at § 648.11(m)(4)(iv) and (v). However, the regulations containing measures to address slippage on vessels issued a Category A or B herring permit are located at § 648.11(m)(7)(iv) through (vi). This action corrects this regulatory citation.

On January 1, 2023, regulatory text pertaining to general recordkeeping and reporting requirements at § 648.7(b)(1) was unintentionally removed from the Code of

Federal Regulations. This action restores the regulatory text that was previously found at § 648.7(b)(1).

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator (AA) is promulgating final regulations that have been determined to be consistent with the Atlantic Herring FMP, provisions of the Magnuson-Stevens Act, and other applicable law.

The AA finds good cause under 5 U.S.C. 553(b)(3)(B) that prior notice and the opportunity for public comment on this interim final rule would be contrary to the public interest because it would undermine the benefits conferred by the measures in this action. The public is anticipating the implementation of these measures, since the Council voted on recommended specifications during a public meeting. Additionally, the specifications implemented in this action are formulaic and calculated by applying the ABC control rule to updated assessment data. Both the ABC control rule and the updated fishery data were closely analyzed and subject to public comment during the development of Amendment 8 and these specifications. Further, the final specifications being implemented through this action need to be in place as soon as possible after the start of the herring fishing year on January 1, 2023. If implementation of this action is delayed, updated 2023 herring fishery specifications may not be in effect before the conclusion of the winter fishery in Areas 1B and 3. If this occurs, the herring fleet may miss out on the economic opportunities associated with the updated specification. The Council submitted the final SIR to NMFS on January 10, 2023. NMFS has worked as quickly as possible to implement this interim final rule while ensuring that the rulemaking process is consistent with the herring specifications requirements at § 648.200. Last, NMFS is accepting public comment on this interim final rule, which will help ensure there have been no significant omissions or errors, or other information that might warrant changes. NMFS will publish a subsequent

final rule if NMFS receives any significant comments. If information submitted during the public comment period resulted in NMFS approving and implementing reduced fishery specifications, any overages of those specifications that occurred before NMFS implemented a final rule may need to be deducted from the applicable sub-ACLs and/or the ACL in a future fishing year. Therefore, a potential final rule would need to be implemented as soon as possible.

For these same reasons, the AA also finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this interim final rule. No additional time is required for any regulated party to come into compliance with the measures in this interim final rule. In order to comply with this final rule, herring vessels will simply need to adhere to the new 2023 herring fishery specifications.

The Office of Management and Budget has determined that this final rule is not significant pursuant to Executive Order (E.O.) 12866.

This interim final rule does not contain policies with federalism or takings implications as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This final rule does not contain any new information collection requirements, including reporting or recordkeeping requirements, for the purposes of the Paperwork Reduction Act.

This final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is not required to be issued with an opportunity for prior notice and opportunity for public comment.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 16, 2023.

Samuel D. Rauch, III
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.7, add paragraph (b)(1) to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) *Fishing Vessel Trip Reports.* The owner or operator of any vessel issued a valid permit, or eligible to renew a limited access permit under this part must maintain on board the vessel, and submit, and accurate fishing log report for each fishing trip, regardless of species fished for or taken, by electronic means. This report must be entered into and submitted through a software application approved by NMFS.

(i) *Vessel owners or operators.* With the exception of those vessel owners or operators fishing under a surfclam or ocean quahog permit, at least the following information as applicable and any other information required by the Regional Administrator must be provided:

(A) Vessel name;

(B) USCG documentation number (or state registration number, if undocumented);

(C) Permit number;

(D) Date/time sailed;

(E) Date/time landed;

(F) Trip type;

(G) Number of crew;

(H) Number of anglers (if a charter or party boat);

(I) Gear fished;

(J) Quantity and size of gear;

(K) Mesh/ring size;

(L) Chart area fished;

(M) Average depth;

(N) Latitude/longitude;

(O) Total hauls per area fished;

(P) Average tow time duration;

(Q) Hail weight, in pounds (or count of individual fish, if a party or charter vessel), by species, of all species, or parts of species, such as monkfish livers, landed or discarded; and, in the case of skate discards, “small” (i.e., less than 23 inches (58.42 cm), total length) or “large” (i.e., 23 inches (58.42 cm) or greater, total length) skates;

(R) Dealer permit number;

(S) Dealer name;

(T) Date sold, port and state landed; and

(U) Vessel operator's name, signature, and operator's permit number (if applicable).

(ii) *Atlantic mackerel owners or operators.* The owner or operator of a vessel issued a limited access Atlantic mackerel permit must report catch (retained and discarded) of Atlantic mackerel daily via VMS, unless exempted by the Regional Administrator. The report must include at least the following information, and any other information required by the Regional Administrator: Fishing Vessel Trip Report serial

number; month, day, and year Atlantic mackerel was caught; total pounds of Atlantic mackerel retained and total pounds of all fish retained. Daily Atlantic mackerel VMS catch reports must be submitted in 24-hr intervals for each day and must be submitted by 0900 hr on the following day. Reports are required even if Atlantic mackerel caught that day have not yet been landed. This report does not exempt the owner or operator from other applicable reporting requirements of this section.

(iii) Surfclam and Ocean Quahog owners or operators. The owner or operator of any vessel conducting any surfclam and ocean quahog fishing operations must provide at least the following information and any other information required by the Regional Administrator:

- (A) Name and permit number of the vessel;
- (B) Total amount in bushels of each species taken;
- (C) Date(s) caught;
- (D) Time at sea;
- (E) Duration of fishing time;
- (F) Locality fished;
- (G) Crew size;
- (H) Crew share by percentage;
- (I) Landing port;
- (J) Date sold;
- (K) Price per bushel;
- (L) Buyer;
- (M) Tag numbers from cages used;
- (N) Quantity of surfclams and ocean quahogs discarded; and
- (O) Allocation permit number.

(iv) Private tilefish recreational vessel owners and operators. The owner or operator of any fishing vessel that holds a Federal private recreational tilefish permit, must report for each recreational trip fishing for or retaining blueline or golden tilefish in the Tilefish Management Unit. The required Vessel Trip Report must be submitted by electronic means. This report must be submitted through a NMFS–approved electronic reporting system within 24 hours of the trip returning to port. The vessel operator may keep paper records while onboard and upload the data after landing. The report must contain the following information:

(A) Vessel name;

(B) USCG documentation number (or state registration number, if undocumented);

(C) Permit number;

(D) Date/time sailed;

(E) Date/time landed;

(F) Trip type;

(G) Number of anglers;

(H) Species;

(I) Gear fished;

(J) Quantity and size of gear;

(K) Soak time;

(L) Depth;

(M) Chart Area;

(N) Latitude/longitude where fishing occurred;

(O) Count of individual golden and blueline tilefish landed or discarded; and

(P) Port and state landed.

* * * * *

3. In § 648.14, remove paragraphs (r)(1)(vi)(H) and (I).

4. In § 648.201, revise paragraph (h) to read as follows:

§ 648.201 AMs and harvest controls.

* * * * *

(h) If NMFS determines that the New Brunswick weir fishery landed less than 2,722 mt of herring through October 1, NMFS will subtract 1,000 mt from management uncertainty and reallocate that 1,000 mt to the ACL and Area 1A sub-ACL. NMFS will notify the Council of this adjustment and publish the adjustment in the Federal Register.

5. In § 648.202:

a. Remove and reserve paragraph (a)(2); and

b. Revise paragraph (b)(4)(iv).

The revision reads as follows:

§ 648.202 Season and area restrictions.

* * * * *

(b)

(4) * * *

(iv) Comply with the measures to address slippage specified in § 648.11(m)(7)(iv) through (vi) if the vessel was issued a Category A or B Herring Permit.

6. In § 648.370, revise the Western Gulf of Maine HMA table in paragraph (f)(1) to read as follows:

§ 648.370 Habitat Management Areas.

* * * * *

(f) * * *

(1) * * *

Table 6 to paragraph (f)(1)--Western Gulf of Maine HMA

Point	N latitude	W longitude
WGMH1	43°15' N	70°15' W
WGMH2	42°15' N	70°15' W
WGMH3	42°15' N	70°00' W
WGMH4	43°15' N	70°00' W
WGMH1	43°15' N	70°15' W

* * * * *

[FR Doc. 2023-05797 Filed: 3/22/2023 8:45 am; Publication Date: 3/23/2023]